

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRYAN EAGLES,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:20-cv-00514-LRH-WGC

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Bryan Eagles, a Nevada prisoner. On September 10, 2020, Eagles filed an Application to Proceed *in Forma Pauperis* (ECF No. 1). Eagles also submitted, for filing, a Petition for Writ of Habeas Corpus (ECF No. 1-1). Attached to the petition is an affidavit in which Eagles requests appointment of counsel (ECF No. 1-1, pp. 15–16).

Eagles' Application to Proceed *in Forma Pauperis* is incomplete in that the required financial certificate is not completed. The application will be denied on that ground. The Court will set a deadline for filing of a new, complete application, or payment of the filing fee, after counsel appears on Eagles' behalf.

Prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. Eagles' filings indicate that appointment of counsel is in the interests of justice. The Court will grant Eagles' request for appointment of counsel.

1 The Court has examined Eagles' petition, pursuant to Rule 4 of the Rules
2 Governing Section 2254 Cases in the United States District Courts, and the Court
3 determines that it merits service upon the respondents. The Court will order the petition
4 served upon the respondents, and will direct the respondents to appear, but will not
5 require any further action on their part at this time.

6 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall separately file
7 the Petition for Writ of Habeas Corpus (ECF No. 1-1).

8 **IT IS FURTHER ORDERED** that Petitioner's request for appointment of counsel
9 (ECF No. 1-1, pp. 15–16) is **GRANTED**. The Federal Public Defender for the District of
10 Nevada (FPD) is appointed to represent the petitioner. If the FPD is unable to represent
11 the petitioner, because of a conflict of interest or for any other reason, alternate counsel
12 will be appointed. In either case, counsel will represent the petitioner in all federal court
13 proceedings relating to this matter, unless allowed to withdraw.

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve
15 upon the FPD a copy of this order, together with a copy of the Petition for Writ of
16 Habeas Corpus (ECF No. 1-1).

17 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this
18 order to file a notice of appearance, or to indicate to the Court its inability to represent
19 the petitioner in this case.

20 **IT IS FURTHER ORDERED** that the requirement that Petitioner pay the filing fee
21 for this action is suspended. The Court will set a deadline for the filing of a new,
22 complete application to proceed *in forma pauperis*, or payment of the filing fee, after
23 counsel appear for the petitioner and the respondents.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Aaron Ford,
25 Attorney General of the State of Nevada, as counsel for the respondents.

26 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve
27 upon the respondents a copy of the Petition for Writ of Habeas Corpus (ECF No. 1-1),
28 and a copy of this order.

1 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date
2 of this order to appear in this action. Respondents will not be required to respond to the
3 habeas petition at this time.

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5 DATED this 17th day of September, 2020.

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9 LARRY R. HICKS
10 UNITED STATES DISTRICT JUDGE
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